

MEMORANDUM

February 2, 2007

TO: Transportation and Environment Committee

FROM: *KL* Keith Levchenko, Senior Legislative Analyst

SUBJECT: Executive Regulation 20-06, Sidewalk Vendor Operation and License

On January 23, 2007 the Council received Executive Regulation 20-06 Sidewalk Vendor Operation and License from the County Executive (see ©1-10). This regulation establishes a process for the licensing and operations of vendors using pushcarts or other slow-moving vehicles in Central Business Districts (CBDs), consistent with Bill 26-04 "Vendors – Amendments" (see ©15-19) approved by the Council on December 14, 2004.

This regulation was advertised in the September 2006 Register. As a Method 2 regulation, the Council has 60 days to approve or disapprove the regulation. The Council may also extend the deadline for action. If the Council does not act by the deadline (or extend the deadline) the regulation automatically goes into effect.

Department of Permitting Services (DPS) Acting Director Reginald Jetter is expected to attend the Committee meeting. In addition, Regional Services Center staff have been invited to attend. DPS worked closely with these staff in the development of the regulation.

Background

Bill 26-04 provided DPS the authority (through Method 2 regulation) to issue licenses for a limited number of stationary or slow-moving pushcarts or similar vehicles in a CBD (see ©16). Fees for all vendor permits are authorized under Executive Regulation 10-06 Schedule of Fees for Permits, Licenses, and Certifications.

Some of the key provisions of the new regulation are:

- The application requirements (such as copies of any permits required by state and local health authorities, a description of the sidewalk vending cart including dimensions, and a diagram showing the proposed area where the cart is to be located)

- Number of vendors allowed (no more than one vending license for every 5 acres of land in each CBD and no more than one sidewalk vendor within each 300 feet of block face)
- Stand design (such as dimensions, structural materials, mobility and other features)
- Location requirements (specific distances and buffers required so as to not obstruct vehicular, bicycle, or pedestrian travel areas)
- Hours of Operation (6:30 AM to 10:00 PM weekdays and 9:00 AM to 10:00 PM on weekends) with all carts removed (along with all trash) on a daily basis.

Discussion

Comments Received

Included within the Executive transmittal were comments received from the Greater Silver Spring Chamber of Commerce (see ©11-12), the Village Manager of the Village of Friendship Heights (see ©13), and Mel Tull of the Silver Spring Regional Services Center (see ©14). DPS staff reviewed each of these comments prior to finalizing the resolution.

With regard to issues raised by the Greater Silver Spring Chamber of Commerce, DPS believes most of the issues are addressed in various sections of the regulation. Some specific comments are provided below:

- With regard to the suggestion that vendors should not be able to locate directly in front of existing businesses with which they would be in direct competition, DPS believes this would require a change in County law. Council Staff would also caution that such a direct competition restriction does not exist with regard to permanent commercial establishments. It could also be problematic to enforce, since defining “direct” competition may not always be easy.
- The question of the consequences of violation is also raised. As with other violations related to Chapter 47, violations are considered Class A violations (as noted in Chapter 47-8).
- With regard to follow-up, as with any new regulation, DPS intends to monitor the situation to see if changes are warranted. The Regional Service Centers will also play a key role in assessing how well the regulation is working.

With regard to the comments from the Village of Friendship Heights regarding its desire to maintain control over the issue within its boundaries, DPS and Council legal staff believe a change in County law would be required. State law may also come into play.

The Regional Service Center comments include some specific comments that DPS believes are already addressed in the regulation or elsewhere in the County Code. Some definitional corrections suggested by Mr. Tull were incorporated into the regulation.

Fiscal Impact

Due to the small number of expected licenses, the Office of Management and Budget does not project any additional costs or revenue associated with this regulation.

Council Staff Recommendation

Council Staff recommends approval of the regulation as transmitted by the Executive.

Attachments

KML:f:\levchenko\permitting services\t&e committee 2 5 07 vendors regulation.doc

EXEC REG



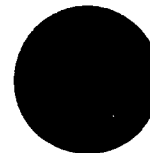
OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

026333

Isiah Leggett
County Executive

MEMORANDUM

January 23, 2007




127 JAN 23 PM 1:34

MONTGOMERY COUNTY
COUNCIL

KL
CC
SBF
LL
MAP

TO: Marilyn J. Praisner, President
Montgomery County Council Method 2

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Executive Regulation 20-06 Sidewalk Vendor Operation and License

The purpose of this memo is to submit Executive Regulation 20-06 Sidewalk Vendor Operation and License to the County Council for approval. This Executive Regulation was advertised in the Montgomery County Register. Enclosed are written comments from The Greater Silver Spring Chamber of Commerce, Julian Mansfield, Village Manager of Village of Friendship Heights, and Melvin Tull, Silver Spring Regional Services Center. Jeff Burton, Director of Operations, Bethesda Urban Partnership provided verbal comments. All comments to the Executive Regulation were discussed with and addressed by staff from the Regional Government Centers, County Attorney's Office and Department of Permitting Services (DPS). As a result of the comments received, the Executive Regulation has been revised with the following changes:

1. The definition "Sidewalk Vending Cart" was changed to be consistent with the language in the Montgomery County Code, Chapter 47. Language throughout the text of the Executive Regulation was changed where appropriate using the term "Sidewalk Vending Cart".
2. The language "sell within the boundaries of a right of way street closure approved and permitted by the County or the State" was added to section IX. LOCATION REQUIREMENTS:

If you have questions, or need additional information, please call Reginald Jetter on 240-777-6275.

DMD:rj

Enclosures

MEMORANDUM

September 8, 2006

TO: Beverley K. Swaim-Staley, Director
Office of Management and Budget

VIA: Beryl Feinberg, Management and Budget Manager *BF*

VIA: Brady Goldsmith, Management and Budget Specialist *BrG*

FROM: Mary C. Beck, Management and Budget Specialist *MCB*

SUBJECT: Executive Regulation 20-06, Sidewalk Vendor Operation
and License

REGULATION SUMMARY

This regulation establishes a process for the licensing and operations of certain vendors using pushcarts or other slow-moving vehicles in certain Central Business Districts.

FISCAL SUMMARY

Due to the small volume of expected licenses, no additional costs are anticipated at this time. Fees for all vendor permits are authorized under Executive Regulation 10-06 Schedule of Fees for Permits, Licenses, and Certifications – Method 2. No additional revenues are anticipated.

Reginald Jetter, Susan Scala-Demby and Maggie Orsini from the Department of Permitting Services contributed to and concurred with this analysis.

BSS: mcb

cc: Robert Hubbard, DPS
Reginald Jetter, DPS
Susan Scala-Demby, DPS
Maggie Orsini, DPS
Catherine Patterson, OMB

FISCAL IMPACT STATEMENT
{Sidewalk Vendor Operation and License}
Title of Regulation

FISCAL SUMMARY: Presentation of the incremental increase-or decrease in expenditures and revenues for the current and next fiscal years.

	<u>Current Fiscal Year FY 07</u>	<u>Next Fiscal Year FY 08</u>
1. Revenues:	None	None
2. Personnel Costs:		
Salaries and Wages:		
Fringe Benefits:		
Total Personnel Costs:	None	None
3. Operating Expenses:		
List Items:		
Total Operating Expenses:		
Capital Outlay:		
Total Expenses (2 + 3):	None	None
4. Positions Affected:	None	None
Positions:		
Full-time:		
Part-Time:		
Workyears:		
Full-time:		
Part-Time:		
5. Assumptions and Explanations:		
Fees for all vendor permits are authorized under Executive Regulation 10-06 Schedule of Fees for Permits, Licenses, and Certifications – Method 2. No additional revenues are anticipated. Due to the small volume of expected licenses, no additional costs are anticipated at this time.		
6. Economic Effect on Private Sector:	None	

If additional space is needed, please attach.

OMB REVIEW

Fiscal Impact Statement approved _____

OMB Director

Fiscal Impact Statement not approved, OMB will contact department to remedy.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive, 101 Monroe Street, Rockville, Maryland 20850

Subject: Sidewalk Vendor Operation and License

Number: 20-06

Originating Department: DEPARTMENT OF PERMITTING SERVICES

Effective Date:

Montgomery County Regulation on:

SIDEWALK VENDOR OPERATION AND LICENSE

DEPARTMENT OF PERMITTING SERVICES

Issued by: County Executive
Regulation No.

Authority: Code Sections 47-
Supersedes: Regulation . None
Council Review: Method 2 under Code Section 2A-15
Register Vol. Issue
Comment deadline:
Effective date:
Sunset date: None

SUMMARY: This regulation establishes a process for the licensing and operations of certain vendors using pushcarts or other slow-moving vehicles in certain Central Business Districts (CBD) as noted in section 47-1 and 47-2 of the Montgomery County Code as amended.

ADDRESSES: Department of Permitting Services
255 Rockville Pike, Second Floor
Rockville, Maryland 20850

STAFF CONTACT: Susan Scala-Demby, Manager
Division of Casework Management
240-777-6255

Reginald Jetter, Chief
Division of Casework Management
240-777-6275



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive, 101 Monroe Street, Rockville, Maryland 20850

Subject: Sidewalk Vendor Operation and License

Number: 20-06

Originating Department: DEPARTMENT OF PERMITTING SERVICES

Effective Date:

BACKGROUND INFORMATION: The Department of Permitting Services (DPS) enforces Chapter 47 of the Montgomery County Code. This regulation establishes licensing requirements and operational requirements for sidewalk vendors and sidewalk sales in the Central Business District (CBD) zones in Montgomery County.

I: PURPOSE

This regulation establishes a licensing process for sidewalk sales and sidewalk vendor operations as noted in section 47-1 of the Montgomery County Code as amended.

II: APPLICABILITY

This regulation applies to any individual who seeks to vend in the Central Business District using a pushcart or other slow-moving vehicle with functional wheels that is no larger than three (3) feet by seven (7) feet and from which the operator dispenses food, drink, or retail goods.

III: DEFINITIONS

For the purposes of this regulation, the following words and phrases have the meaning indicated. Word and phrases defined and used in Chapters 47 and 59 of the Montgomery County Code have the meaning indicated in those Chapters.

Block Face: One (1) side of a segment of a street that does not extend beyond any intersection with another street, or portion thereof.

Sidewalk: Those areas legally open to the public for use as a pedestrian walkway between the curb and the edge of the public right-of-way.

Sidewalk Vendor: Any person who sells, offers to sell, or solicits orders for any goods (including perishable foods) or services from a sidewalk vending cart.

Sidewalk Vending Cart: A pushcart or other slow moving vehicle meeting all the requirements of Chapter 47 of the Montgomery County Code for the conducting of business in the Central Business District of Montgomery County.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive, 101 Monroe Street, Rockville, Maryland 20850

Subject: Sidewalk Vendor Operation and License

Number: 20-06

Originating Department: DEPARTMENT OF PERMITTING SERVICES

Effective Date:

Sidewalk Vendor License: A license that permits sales of goods from a sidewalk vending cart, either moving or located in a stationary location in the public right of way in the Central Business District.

Sidewalk Vending Cart Sales: A type of vending activity that includes selling of goods or services from a sidewalk vending cart that is located either on a sidewalk or in the public right of way.

Vendor Book: A notebook of documents supplied by the Department of Permitting Services which must accompany a sidewalk vendor license for sidewalk vending activity.

IV: POLICY

It is unlawful for any person to engage in the business of sidewalk vending without first obtaining a revocable license from the Department of Permitting Services, subject to review and conditions, for every vendor operation; and in certain situations to require an approved supplemental vendor book.

V: PROCEDURES

5.0 Application for Sidewalk Vendor License

Application to vend from a sidewalk or public right of way in the Central Business District shall be made to the Department of Permitting Services on the accepted application. The application shall require the following:

- a) correct legal name, present address and telephone number of the applicant;
- b) type of goods or services to be sold;
- c) copies of all permits required by state and local health authorities;
- d) signed indemnity form;
- e) description of sidewalk vending cart including dimensions;
- f) a diagram showing the proposed area including distances from the sidewalk vending cart to the street, intersections, businesses, street cafes, pedestrian walkway. Applicant must allow for and show a minimum of five (5) feet of pedestrian walkway on the sidewalk for customers;



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive, 101 Monroe Street, Rockville, Maryland 20850

Subject: Sidewalk Vendor Operation and License	Number: 20-06
Originating Department: DEPARTMENT OF PERMITTING SERVICES	Effective Date:

- g) Submit proof that they possess liability insurance in the amount of \$500,000 and sign a statement holding Montgomery County harmless against any claim of liability;
- h) payment of a fee as determined by the Department and detailed by regulation;
- i) post a bond to cover the cost of any removal of abandoned sidewalk vending cart, damage to or clean-up of public property.

VI. VENDOR SITE SELECTION PROCESS

No more than one (1) vending licenses shall be issued for every five (5) acres of land in each Central Business District.

No more than one (1) sidewalk vendor shall be allowed to locate within each three hundred (300) feet of block face.

One (1) time priority will be granted to applicants possessing regular route vending licenses in the Central Business District on the effective date of these regulations.

VII. TRASH REMOVAL AND CLEAN UP

During the period of vending, licensees are responsible for keeping the sidewalk within fifteen (15) feet of their sidewalk vending cart clean of trash generated by their vending operations, and for cleaning the sidewalk in the area occupied by their stand.

Licensees must take with them at the end of each day, all trash, litter, garbage, refuse and waste, including but not limited to cooking liquids, water, ice, paper, cardboard, wood or plastic containers, wrappers, or any litter in any form which is deposited by any person within a fifty (50) foot radius of the vending area. No licensee may place or deposit any trash, liter, garbage, refuse or any other wastes generated by his or her licensed operations on the sidewalk, in any public receptacle, or on any private property without the express permission of the property owner.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive, 101 Monroe Street, Rockville, Maryland 20850

Subject: Sidewalk Vendor Operation and License

Number: 20-06 .

Originating Department: DEPARTMENT OF PERMITTING SERVICES .

Effective Date:

VIII. STAND DESIGN

The design standards are regulations that address the dimension, structural materials, mobility and other design aspects of the sidewalk vending carts, with the purpose of protecting public safety and ensuring the sidewalk vending carts are placed on the public right-of-way are maintained in a neat, clean and orderly fashion and ensure that all sidewalk vending carts:

- a) not exceed three (3) feet in width by seven (7) feet in length including any hitch, and not exceed a height of five (5) feet excluding canopies or umbrellas which must be a minimum of seven (7) feet above the sidewalk. Umbrellas and canopies shall not exceed 28 square feet in area;
- b) be on wheels;
- c) be of light weight construction so that it can be moved from place to place by one (1) adult person with no auxiliary power;
- d) not be motorized so as to move on its own power;
- e) be capable of transporting all vendor's wares such that the vendor can set up and break down the sidewalk vending cart without placing any objects on the sidewalk or street beyond two (2) feet of the edge of the cart;
- f) be of durable easy to clean materials;
- g) have advertising and other signage limited to the name of the sidewalk vending cart or listing of items sold and price in lettering not larger than two (2) inches;
- h) have no amplified sound.

IX: LOCATION REQUIREMENTS

Sidewalk vendors must not locate in or obstruct the travel lane of a public right-of-way, the pedestrian area of the sidewalk, or bike lanes at any time.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive, 101 Monroe Street, Rockville, Maryland 20850

Subject: Sidewalk Vendor Operation and License

Number: 20-06

Originating Department: DEPARTMENT OF PERMITTING SERVICES

Effective Date:

No person may conduct business from a sidewalk vending cart in any of the following places:

- a) within twenty (20) feet of the intersection of the sidewalk with any other sidewalk or mid-block crossing;
- b) any location which would reduce the clear, continuous sidewalk width to less than five (5) feet;
- c) within five (5) feet of any imaginary perpendicular line running from any building entrance or doorway to the curb line;
- d) within five (5) feet of any handicapped parking space, or access ramp;
- e) within twenty (20) feet of any bus stop or METRO entrance or exit;
- f) within three (3) feet of benches, planters or trees;
- g) within twenty (20) feet of sidewalk cafes;
- h) within fifteen (15) feet of a fire hydrant;
- i) vend using the surface of the sidewalk or on a blanket or board placed immediately on the sidewalk or on top of a trash receptacle or cardboard boxes to display merchandise;
- j) sell or offer for sale any item directly from any parked or double parked motor vehicle;
- k) sell within the boundaries of a right-of-way street closure approved and permitted by the County or the State.

Sidewalk vendors must:

- a) display sidewalk vendor license prominently and each operator must wear his or her operator identification card visible to the public;
- b) keep the area within fifteen (15) feet of the location where the vendor is located free from all litter and debris arising from the operations including the litter which arises from action of customers in disposing of wrapping or packing materials of merchandise sold by the vendor during the period of vending;



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive, 101 Monroe Street, Rockville, Maryland 20850

Subject: Sidewalk Vendor Operation and License

Number: 20-06

Originating Department: DEPARTMENT OF PERMITTING SERVICES

Effective Date:

- c) ensure pedestrian traffic walkway of five (5) feet is maintained when large numbers of potential customers gather to view merchandise and must be sure clear and courteous passage is made possible for the public.

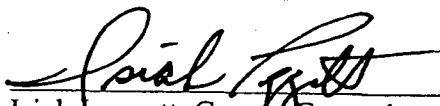
X. HOURS

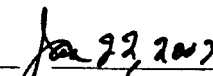
Hours of operation will be limited to the hours of 6:30 AM to 10:00 PM Monday through Friday and 9:00 AM to 10:00 PM Saturday and Sunday. All sidewalk vending carts must be removed along with all trash from the vending location on a daily basis. Loading and unloading of merchandise must comply with all traffic regulations and cannot exceed fifteen (15) minutes.

XI. SEVERABILITY

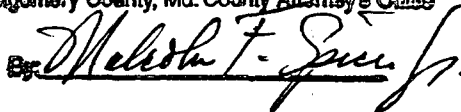
The provisions of these regulations are severable. If a court of competent jurisdiction holds that a provision is invalid or inapplicable, the remainder of the regulation remains in effect.

EFFECTIVE DATE: This regulation becomes effective _____.


Isiah Leggett, County Executive


Date Jan 22, 2021

Approved as to form and legality
Montgomery County, Md. County Attorney's Office


By: Melinda F. Smith, Jr.



September 25, 2006

Reginald Jetter, Chief
Division of Casework Management
Department of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4166

Dear Mr. Jetter:

On behalf of the Greater Silver Spring Chamber of Commerce, I am writing to offer some comments and recommendations to the proposed Regulations on Sidewalk Vendor Operation And License.

We recommend the following with regard to the locations for the pushcarts:

- For all restrictions on the locations of the pushcarts, it should be clarified that the restriction is measured from the edge of the canopy, or whatever part of the pushcart protrudes the most.
- The restriction in Section IX(c) for locating away from building entrances and doorways should assure a clear path of entry from the curb and should be clarified to state, "within the area bounded by the two (2) imaginary perpendicular lines running from the outermost edge of any building entry doors or doorway to the curb line, and within five feet (5') of the outer edge of either such imaginary perpendicular line."
- Pushcarts should not be able to locate directly in front of existing businesses with which they would be in direct competition. (e.g. a vendor selling watches should not be able to locate in front of a jewelry store selling watches)

With regard to the sections that address trash and appearance:

- While the regulations include a requirement that carts to be made of easy-to-clean material, there's no corresponding requirement that the carts be kept in a clean, tidy fashion. Language should be added making the vendor responsible for keeping the carts clean and in good order.
- The regulations should require that all items must be kept and stored within the structure of the pushcart—no coolers, tables or other items in front.

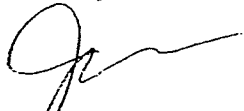
Page 2

With regard to enforcement of these regulations and existing laws:

- The proposed Regulations outline requirements, but do not specify the consequences for a violation of the Regulations. It should be specified that any violation of the Regulations is a Class A violation in accordance with Section 47-8 of the Montgomery County Code. We also suggest the procedures for enforcement and penalties – fines, revocation of permit – be specified in the Regulations.
- Further, we believe it will be difficult to ascertain whether these guidelines will work until they have been in place for awhile. As such, we recommend adding a section stating that the regulations will be revisited in a certain time frame, perhaps one year. At the very least, some type of reporting as to whether there are problems with the guidelines should be required in the regulations.
- So that citizens and local business owners have a convenient mechanism for reporting problems, we recommend that pushcarts be required to have a very visible and legible sticker that includes the cart's license number and a "hotline" phone number to call with any complaints about the operation of the cart.
- Because we understand that the sale of counterfeit merchandise from pushcarts has been a problem in other jurisdictions, we recommend including in the regulations or on the license application wording indicating that, "the sale of counterfeit merchandise from this cart will result in immediate revocation of license."

We believe that implementing adequate regulations with regard to the operation and licensing of pushcarts will assure the continued success of all types of commerce in our community. We thank you for the opportunity to comment and provide input into these regulations. Should you have any questions about our concerns and recommendations, do not hesitate to call me.

Sincerely,



Jane Redicker
President

cc: Gary Stith

Jetter, Reginald

From: Julian Mansfield [jmansfield@friendshipheightsmd.gov]
Sent: Thursday, September 28, 2006 4:27 PM
To: Jetter, Reginald
Cc: ptglasgow@venable.com
Subject: Executive Reg--Sidewalk Vendor License

Mr. Jetter:

As I indicated in my voice mail message to you this afternoon, we are very concerned that the Executive Regulation on Sidewalk Vendor Operation and License supercedes the Village of Friendship Heights' authority to control the use and occupancy of public rights-of-way within the Village pursuant to our Charter. Consequently, we need language to the effect that, within Village boundaries:

1. No permit will be issued by Montgomery County without prior approval of the Friendship Heights Village Council.
2. The Friendship Heights Village Council is not obligated to approve a permit.
3. The Friendship Heights Village Council may impose additional conditions as part of its approval process.

Thank you for your assistance with this matter. I have spoken to Ken Hartman in Howard Denis' office to alert him of our concerns as well. He is checking with Mike Faden to determine the best way to accomplish that.

Julian Mansfield
Village Manager
Village of Friendship Heights

Jetter, Reginald

From: Tull, Mel
Sent: Tuesday, October 03, 2006 5:14 PM
To: Jetter, Reginald
Subject: Pushcart Vendor License

Reggie

The pushcart vendor regs should be considered in combination with the law on which they are based and with the basic vendor law and regs. However, those were not readily available as I reviewed the comments of the Greater Silver Spring Chamber of Commerce. Consequently, I was prompted to consider:

Whether a requirement to actually clean the cleanable surfaces (VIII-e) could be stated in a way to require the removal of any graffiti;

Whether a cart that can not have a motor for the purpose of moving the cart (VIII-d) could nevertheless have a gasoline motor to power a generator to provide power for lights, cooler/freezer, etc – and whether there might be limitations on exhaust fumes, noise/muffler, and fuel containers;

Whether the dimensions of the cart (VIII-a) should be accompanied by a limitation on how much they can be increased by removable items secured to the cart;

Whether the license can be rendered in a time dimension as well as the space dimension (VI, IX, X) so that a location taken by a breakfast vendor can also be made available to a different, separate evening vendor.

Whether the lack of consistency in use of the defined “sidewalk vending cart” term will cause a problem in enforcement:

sec. VIII establishes standards for “stands” not sidewalk vending carts, and the defined term “slow moving pushcart sales” is defined in relation to a slow moving pushcart rather than the “sidewalk vending cart”.

It is clear that a “Sidewalk Vendor License” can only be made available for vending from a mobile device or pushcart that meets the requirements of a “Sidewalk Vending Cart, not from a stand, yet the only requirements (sec VIII a-h) are for stands rather than for sidewalk vendor carts. I am particularly concerned about my inability to understand this concept, whether sidewalk vending carts are a wheeled subset of stands, meant to be continually moving while the basic concept of vendor stands are intended to be stationary.

I hope these thoughts may be of some use.
 Mel

Mel Tull
 301-565-7366

10/4/2006

(14)

Bill No. 26-04
Concerning: Vendors - Amendments
Revised: 12-9-04 Draft No. 2
Introduced: July 20, 2004
Enacted: December 14, 2004
Executive: December 21, 2004
Effective: March 22, 2005
Sunset Date: None
Ch. 31, Laws of Mont. Co. 2004

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Denis and Leventhal

AN ACT to:

- (1) expressly allow certain vendors to use pushcarts or other slow-moving vehicles in certain Central Business Districts under certain conditions;
- (2) limit the reasons for which the Department of Permitting Services can summarily suspend or revoke a vendors' license, and clarify the Department's authority to refuse to issue or renew a license; and
- (2) generally clarify and amend the laws and procedures governing vendors.

By amending

Montgomery County Code
Chapter 47, Vendors
Sections 47-1, 47-2, and 47-6

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 47-1, 47-2, and 47-6 are amended as follows:**

2 **47-1. Definitions.**

3 In this Chapter, the following words have the meanings indicated:

4 * * *

5 (b) (1) *Vendor* means any person who sells, offers to sell, or solicits
6 orders for any goods (including perishable foods) or services:

7 (A) on any public street, sidewalk, or other public property or
8 right-of-way;

9 (B) door-to-door in a vehicle or on foot; [[or]]

10 (C) from a vehicle, or temporary stand or structure, that is
11 parked or otherwise temporarily located [on private
12 property] while goods are sold or services dispensed; or

13 (D) from a pushcart or other slow-moving vehicle.

14 * * *

15 **47-2. Hours and places of operation**

16 (a) Unless otherwise permitted by law, a person must not sell or offer to sell
17 any goods or services on any public sidewalk or the right-of-way of any
18 public road.

19 (b) The Director may issue licenses for a limited number of stationary or
20 slow-moving pushcarts or similar vehicles, not larger than a size set by
21 regulation, from which a licensee may sell goods on designated
22 sidewalks or rights-of-way in a Central Business District planning
23 policy area (as defined in the County Growth Policy). The Director by
24 regulation under method (2) must limit the number of vehicles licensed
25 in each Central Business District and the number of licensees who can
26 sell any particular type of goods. If more persons apply for any
27 category of licenses under this subsection than the number available, the

Director must first consider renewing each previous licensee and then conduct a lottery among qualified applicants for the remaining licenses. A licensee under this subsection may locate on a public right-of-way only if the Director of Public Works and Transportation concurs that the licensee's operation at that location will not unduly affect vehicular or pedestrian safety.

- (c) A vendor who is a certified producer under standards set by regulation under method (2) may sell fresh produce on the right-of-way of any public road in locations and at times of the day that will not affect public safety. In this Section, "fresh produce" means:
- (1) regionally grown fresh fruit, vegetables, herbs, cut flowers, small trees, and plants; and
 - (2) non-potentially hazardous prepackaged goods and eggs approved by the Department of Health and Human Services.

[(b)] (d) Except for a prearranged appointment or with the Director's approval, a vendor must not conduct business before 9 a.m. nor after sunset. In this Section, "sunset" means the time established by the U.S. Naval Observatory for Washington D.C. and vicinity.

[(c)] (e) Unless permitted by the Director and the school principal for a special event, a vendor must not sell or offer to sell any item on a public road or right-of-way within 500 feet of any public or private elementary or secondary school.

47-6. License non-issuance, revocation, or suspension.

- (a) The Director may revoke or suspend, or refuse to issue or renew, a license [[issued under this Chapter]] for any violation of this Chapter or any other applicable law or regulation. Before taking any action under this subsection, the Director must:

(1) notify the licensee in writing as required by subsection (c); and

(2) give the licensee a reasonable opportunity to respond.

[(a)] (b) The Director may summarily revoke or suspend a license after finding that the licensee:

(1) has knowingly misstated or omitted a material fact from the submitted application;

(2) has had a business or occupational license or permit revoked or suspended;

(3) is not of good moral character, as evidenced by a conviction of a crime involving violence, sex offense, theft, fraud, or controlled dangerous substances, unless the person's conduct since the conviction shows that the public safety is unlikely to be jeopardized;

[(4)] has violated a condition of the license, this Chapter, or any other law related to the vending operation;] or

[(5)] (4) has refused to leave any premises when lawfully directed by an owner, occupant, or [an] authorized government official to do so.

[(b)] (c) ~~[[***]]~~ The Director must provide written notice to the applicant or licensee of any action taken or proposed to be taken under subsection

(a) or (b). The notice must:

(1) state the:

(A) reasons for the action ~~[[taken]]~~; and

(B) recipient's right to appeal to the Board of Appeals; and

(2) be delivered:

(A) personally to the applicant or licensee; or

(B) sent by certified mail to the local address in the license application.

82 [(c)] (d) * * *

83 [(d)] (e) * * *

84 *Approved:*

85

86 /s/ 12/17/04

Thomas A. Perez, President, County Council Date

87 *Approved:*

88

89 /s/ 12/21/04

Douglas M. Duncan, County Executive Date

90 *This is a correct copy of Council action.*

91

92 /s/ 12/22/04

Mary A. Edgar, CMC, Clerk of the Council Date